

**REMARKS**

Claims 1-19 are all the claims pending in the application. By this amendment claim 19 is amended to without adding new matter. Further, claims 1, 5, 9, 15 and 17 are also amended. In view of the foregoing amendments and following remarks, applicant respectfully requests withdrawal of the rejections, and allowance of the claims.

**I. 35 U.S.C. § 112**

Claim 19 stands rejected under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph due to alleged indefiniteness. As shown in the foregoing amendments, claim 19 is amended. In view of the foregoing amendment, applicant respectfully requests withdrawal of the rejection, and allowance of the claims.

**II. 35 U.S.C. § 103**

Claims 1, 3-8 and 16-19 stand rejected under 35 U.S.C. § 103(a) due to alleged obviousness based on Duffield. Claim 2 stands rejected under 35 U.S.C. § 103 due alleged obviousness based on Duffield in view of the “admitted prior art”, and claims 9-13 and 15 stand rejected based on Duffield in view of Lewis. Claim 14 stands rejected under 35 U.S.C. § 103 based on Duffield in view of Mangipudi and the “admitted prior art”. For at least the reasons discuss below, applicant respectfully submits that the Examiner’s proposed combinations and modifications of the cited prior art fail to disclose or suggest all of the claimed combinations of features. Accordingly, applicant respectfully requests withdrawal of the rejections, and allowance of the claims.

Applicant respectfully submits that Duffield fails to disclose all of the features recited in independent claims 1 and 17, as amended to further clarify the claim scope. For example, but not

by way of limitation, applicant respectfully submits that Duffield is only directed to reallocation of bandwidth in a VPN-network interface, and does not disclose or suggest generation of usage profiles for *each* of the SLAs.

While the Examiner has indicated that the hose profile of Duffield corresponds to the SLA profile, and further asserts that each hose corresponds to a different SLA, applicant respectfully disagrees. Applicant notes that a hose may be governed by an SLA; however, Duffield does not disclose that a given hose includes all of the SLAs, such that aggregation of the information in a single hose profile would produce an aggregated result, which accordingly determines a network usage predictive state. Applicant has amended independent claim 1 to recite that the network usage predictive state comprises a profile of SLA usage to be used for prediction.

While Duffield does disclose use of prediction of hose capacity, and possible reallocation of bandwidth in view of resource allocation efficiency, applicant respectfully submits that the foregoing disclosure does not fairly disclose or suggest determination of a network evolution planning proposal, as recited in independent claims 1 and 17. Further, applicant has amended these claims to recite that the network evolution planning proposal comprises defining each item of a plant that is to be modified or replaced, as well as its precise location and favorable time of modification or replacement. Applicant respectfully submits that there is no disclosure or suggestion in Duffield of modifying or replacing a plant. Duffield only teaches the need for avoid the inefficiency of having a customer bear the burden of network resource allocation in a VPN.

Dependent claims 2-16 and 19 depend from independent claim 1, and dependent claim 18 depends from independent claim 17. Applicant respectfully submits that the dependent claims

are allowable at least by virtue of their dependency from the independent claims, which are believed to be allowable for at least the reasons discussed above.

Additionally, applicant respectfully submits that Duffield fails to disclose or suggest that market research is the complementary third data, as required by claims 2 and 14. More specifically, applicant respectfully maintains that the QoS of Duffield thus cannot be characterized as the third data of claims 2 and 14. While the Examiner mentions that paragraph [0005] of the present application discloses the use of market research to estimate how customer requirements are evolving, applicant respectfully submits that the Examiner has not explained why this citation qualifies as prior art. Applicant respectfully submits that the application does not admit paragraph [0005] to be prior art, and thus, such a disclosure cannot be a proper basis for the rejection of claim 2. For similar reasons, applicant respectfully submits that Duffield fails to disclose or suggest all of the claimed combinations of features recited in claims 5 and 18.

With respect to the rejection of claims 9-13 and 15 based on the Examiner's proposed combination of Duffield and Lewis, applicant has amended the claims in a manner that is believed to address the points raised by the Examiner. Applicant respectfully maintains that the Examiner's rationale for combining Duffield and Lewis is based on hindsight in view of the applicant's specification that supports the claims. Further, applicant respectfully submits that while the Examiner asserts that it is a matter of common sense to test a proposed optimum configuration prior to implementing a change in a network, there is no connection between this statement and the use of Lewis with respect to the scope of claims 9-13 and 15.

Applicant respectfully submits that while Duffield is generally direct to bandwidth control and allocation as a method for managing a VPN, Lewis discloses a reactive and deliberative configuration management. Further, applicant respectfully submits that in view of

the amended claims, Lewis does not cure the deficiencies of Duffield with respect to independent claims 1 and 17 as well.

For at least these reasons, applicant respectfully submits that the Examiner's proposed combination of Duffield and Lewis fails to render obvious claims 9-13 and 15.

Therefore, applicant respectfully requests withdrawal of the rejections, and allowance of the claims.

### **III. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Respectfully submitted,  
/Mainak H. Mehta/  
Mainak H. Mehta  
Registration No. 46,924

Date: March 19, 2008